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| 10/008,399 | 12/06/2001 | Arturo A. Rodriguez | A-7492 | 2909 |

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| EXAMINER |
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SALCE, JASON P

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| ART UNIT | PAPER NUMBER |
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2623

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08/07/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

| | | | |
|------------------------------|------------------------|----------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/008,399 | RODRIGUEZ, ARTURO A. | |
| | Examiner | Art Unit | |
| | Jason P. Salce | 2623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19-65 and 68-97 is/are pending in the application.
- 4a) Of the above claim(s) 105-111 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 19-65 and 68-97 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 105-111 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/22/07 has been entered.

Election/Restrictions

Newly submitted claims 105-111 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The claims are directed to a specific method of determining a user's preferences based on time of day, day of week and month of a year and recording the user preference in multiple data structures corresponding respectively to the viewing parameter for the time of the day, the day of the week and the month of the year. Additionally the claims further recite requesting presentation of an interactive program guide and populating the program guide with program information associated with the user preference based on multiple data structures. The examiner notes that claims 105 and 110 represents a subcombination useable together with the preference determination process disclosed in the previous set of claims (see class 725, subclass 50 for further classification of claims 105 and 110, which describes updating of electronic program guide information).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 105-11 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

Applicant's arguments with respect to claims 1-16, 19-65 and 68-97 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 19-65, 68-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Maissel et al. (US 6637029) in view of Herz et al. (U.S. Patent No. 5,758,257).

Claims 1 and 49, Maissel discloses a method/system for providing television functionality (see Col. 1, lines 1-13) comprising:

tracking viewing parameters corresponding to services that are provided to a user (Col. 16, lines 12-Col. 17, lines 50); tracking the user preference by assigning a score (preference strength) to a viewing parameter (Col. 12, lines 23-43).

determining a user preference for a viewing parameter (Col. 11, lines 55-65; Col. 12, lines 23-45; Col. 17, lines 17-50); determining the score for a viewing parameter based on a combination of scores associated with the viewing parameter (Col. 12, lines 23-43).

receiving user input requesting television functionality (Col. 10, lines 54-63);
and

providing a user with a result that is responsive to the user input and to the user preference (Col. 11, lines 47-Col. 13, lines 8).

Although Maissel discloses assigning a score (weight) to the viewing parameter (see Column 12, Lines 35-41 for assigning a preference strength to the programs in the viewer's profile), but fails to teach determining the score for the viewing parameter based on a weighted linear combination of scores associated with the viewing parameter.

Herz discloses a specific type of preference determination process using a technique called "clustering". When clustering is used groups of viewer profiles (that have been weighted) are used (**see Column 34, Lines 13-65**). Further note that the combination of scores in the viewer profiles can be further optimized in order to provide profiles representing linear programming in an iterative approach (**see Column 35, Lines 1-7**). Therefore, Herz clearly teaches determining the score for

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viewer parameters based on a weighted linear combination of scores associated with the viewing parameter.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user preference determination process, as taught by Maissel, using the preference determination process using a weighted linear combination of scores, as taught by Herz for the purpose of providing improvement of customer profiles faster since more movies are viewed per week by a cluster than by any individual in the cluster **(see Column 34, Lines 14-19 of Herz)**.

Claims 2 and 50, Maissel further discloses where the user preference is determined based on a duration that a service characterized by a viewing parameter is presented to a user (Col. 12, lines 17-35).

Claims 3 and 51, Maissel further discloses where the user preference is determined based on a frequency that a service characterized by a viewing parameter is presented to a user (Col. 12, line 35-45).

Claims 4 and 52, Maissel further discloses where the user preference is determined based on duration and a frequency that a service characterized by a viewing parameter is presented to a user (Col. 12, lines 17-45).

Claims 5 and 54, Maissel further discloses where the user preference is for a service (Col. 11, lines 59-Col. 12, lines 5).

Claims 6 and 55, Maissel further discloses where the user preference conflicts with another user preference (reads on each user has different preference; Col. 11, lines 55-Col.12, lines 15).

Claims 7 and 56, Maissel further discloses where a user defines the user preference (Col. 12, lines 57-Col. 13, lines 8).

Claims 8 and 57, Maissel further discloses where the user preference is determined by tracking services that are provided by a digital home communication terminal (Col. 3, lines 1-8).

Claims 9 and 58, Maissel further discloses where the result is only provided if a preference-adaptive mode is activated (Col. 17, lines 8-50).

Claims 10 and 59, Maissel further discloses where the preference adaptive mode is activated via a switch located on a remote control device (Col. 17, lines 8-50).

Claims 11 and 60, Maissel further discloses where user preference is determined based on user input (Col. 12, lines 45-Col. 13, lines 8).

Claims 12 and 61, Maissel further discloses where the user input indicates a preference for a viewing Parameter (Col. 12, lines 45-Col. 13, lines 8).

Claims 13 and 62, Maissel further discloses where the user input indicates a preference against a viewing parameter (Col. 12, lines 45-Col. 13, lines 8; for example, program rating according to parental control).

Claims 14 and 63, Maissel further discloses where the user input indicates a preference for a first viewing parameter (i.e., program category) and a preference

against a second viewing parameter (i.e., program rating according to parental control) (Col. 12, lines 45-Col. 13, lines 8).

Claims 15 and 64, Maissel further discloses where a preference-tracking database is used to keep track of the user preference (Col. 3, lines 1-8).

Claims 16 and 65, Maissel further discloses where the preference tracking database keeps track of user preferences for a plurality of types of viewing parameters (Col. 4, lines 20-51).

Claims 19 and 68, Maissel further discloses where the score for a plurality of viewing parameters may be based on a weighted linear combination of scores associated with the plurality of viewing parameters (Col. 19, lines 23-43).

Claims 20 and 69, Maissel further discloses where the score for a viewing parameter changes over time (Col. 19, lines 23-43).

Claims 21 and 70, Herz discloses where the score for a viewing parameter is revised using statistical analysis (**see Column 36, Lines 37-44**).

Claims 22 and 71, Maissel further discloses where the score for a viewing parameter is determined using an artificial intelligence technology (Col. 3, lines 1-8; Col. 4, lines 11-20).

Claims 23 and 72, Maissel further discloses where data identifying the user preference is stored in non-volatile memory (profile storage unit 140 of Fig. 2 or el. 370 of Fig. 8B is a non-volatile memory because the user profile is stored for a

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period of time, i.e., a month, at the receiver before it could be upload to the headend; Col. 19, lines 58-67).

Claims 24 and 73, Maissel further discloses where data identifying the user preference is stored within a digital home communication terminal (profile storage unit 140 of Fig. 2 or el. 370 of Fig. 8B is a non-volatile memory because the user profile is stored for a period of time, i.e., a month, at the receiver before it could be upload to the headend; Col. 19, lines 58-67).

Claims 25 and 74, Maissel further discloses where data identifying the user preference is stored within a headend device (see Fig. 8A, e. 370).

Claims 26 and 75, Maissel further discloses where the user preference corresponds to at least one viewing parameter (Col. 12, lines 60-Col. 13, lines 8).

Claims 27 and 76, Maissel further discloses where the viewing parameter is a television service (Col. 12, lines 60-Col. 13, lines 8).

Claims 28 and 77, Maissel further discloses where the viewing parameter is a type of television service (Col. 12, lines 60-Col. 13, lines 8).

Claims 29 and 78, Maissel further discloses where the viewing parameter is a television instance (Col 12, lines 60-Col. 13, lines 8).

Claims 30 and 79, Maissel further discloses where the television instance is a television program (Col 12, lines 60-Col. 13, lines 8).

Claims 31 and 80, Maissel further discloses where the viewing parameter is a type of television instance (Col 12, lines 60-Col. 13, lines 8).

Claims 32 and 81, Maissel further discloses where a look-up table is used to determine the user preference for a viewing parameter (Col. 15, lines 63-Col. 16, lines 12 and Col. 18, lines 8-28).

Claims 33 and 82, Maissel further discloses where a look-up table is used to determine a user preference for a plurality of viewing parameters (Col. 12, lines 60-Col. 13, lines 8; Col. 15, lines 63-Col. 16, lines 12 and Col. 18, lines 8-28).

Referring to claims 34 and 83, Maissel further discloses where a number of viewing parameters represented in a first look-up table entry is independent from a number of viewing parameters represented in a second look-up table entry (Col. 13, lines 35-Col. 14, lines 54).

Referring to claims 35 and 84, Maissel further discloses where a plurality of look-up tables are used to determine a user preference for a plurality of viewing parameters (Col. 13, lines 35-Col. 14, lines 54).

Claims 36 and 85, Maissel further discloses where the television functionality comprises a presentation of an interactive program guide (IPG; see Fig. 9A-L).

Claims 37 and 86, Maissel further discloses where the result is an IPG that does not provide information corresponding to a time slot that is not in accordance with the user preference (Col. 14, lines 30-33).

Claims 38 and 87, Maissel further discloses where the result is an IPG that is configured in accordance with the user preference (Col. 13, lines 35-Col. 14, lines 54).

Claims 39 and 88, Maissel further discloses where the result is a presentation of an initial IPG screen that lists at least one television service that corresponds to the viewing parameter (Col. 16, lines 12-Col. 18, lines 28).

Claims 40 and 89, Maissel further discloses where the initial IPG screen lists a plurality of television services that correspond to the viewing parameter (Col. 20, lines 3-Col. 21, lines 65).

Claims 41 and 90, Maissel further discloses where the initial IPG screen does not list any television services that do not correspond to the viewing parameter (Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 42 and 91, Maissel further discloses where the television functionality comprises tuning to a television service (reads on presenting a customizing program guide; Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 43 and 92, Maissel further discloses where the result comprises tuning to a television service that corresponds to the viewing parameter (reads on customizing an EPG that meets on parental control parameter; Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 44 and 93, Maissel further discloses where the television functionality comprises tuning to a user identified television service (reads on requesting an EPG; Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 45 and 94, Maissel further discloses where the user identified television service corresponds to the viewing parameter (reads on EPG that meets

on parental control parameter; Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 46 and 95, Maissel further discloses where the result comprises not tuning to the user identified television service (reads on EPG that does not show programs that do not meet on parental control parameter; Col. 14, lines 20-53; Col. 20, lines 3-Col. 21, lines 65).

Claims 47 and 96, Maissel further discloses where the result comprises prompting a user to provide additional input (Col. 11, lines 60-Col. 12, lines 5).

Claims 48 and 97, Maissel further discloses where the additional input comprises a personal identification number (PIN; Col. 11, lines 60-Col. 12, lines 5).

Claim 53, Maissel further discloses where the user preference varies over time (Col. 12, lines 15-45).

Conclusion

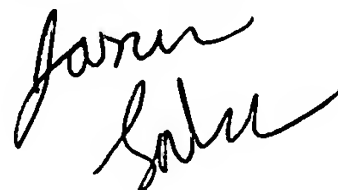
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
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A handwritten signature in black ink, appearing to read "Jason Salce", written in a cursive style.

August 1, 2007